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EXAMINER				
MURDOUGH, JOSHUA A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/632,479

Applicant(s)

LEONTIEV ET AL.

Examiner

JOSHUA MURDOUGH

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 20-25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 20-25 and 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. The Examiner for this application has changed. Please note that the Examiner of record is now Joshua Murdough in any further correspondence.

Response to Amendment

2. The amendment to the claims received on 21 November 2007 has been entered. Claims 1-11, 20-25 and 27-34 are pending

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 33 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 33, is directed towards software per se.

Claim Rejections - 35 USC § 112 2nd Paragraph

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 27-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claims 27-32 are rejected as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the computer. Applicants claim a computer system, but the only recited component is a storage-medium, which by itself is a product, not a system.
- b. Claim 33 is rejected as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the computer. Applicants claim a computer system with no tangible parts, only software portions. Therefore, the Examiner interprets that it is not truly a computer system, and consisting of merely software.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-11, 20-25 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabin et al., U.S. Patent No. 6,697,948 in view of Branscomb et al., U.S. Patent No. 7,240,364.
9. As per claims 1, 20, 27, 33, and 34, Rabin et al. teach a server method for dynamically managing a user software license (column 26, lines 26-67; column 30, lines 45-50; column 59, lines 35-57) comprising:

receiving a plurality of requests from a client (Figure 1, element 104) to access at least one feature of a software program (Figure 2, element 111) each request including identification and license verification concerning the user (figure 12; column 28, lines 6-11; column 35, lines 17-26; column 41, lines 52-63; column/line 48/57-48/8; column 53, lines 16-23 and 50-60)

responsive to receiving each request, retrieving stored software license information concerning the user that corresponds to the received license information (figure 2, items 126, 210 and 212, figures 3A-C, 6, 10 and 13A-B; column 35, lines 17-26; column 37, lines 45-51; column 48, lines 8-32; column/line 49/32-51/28)

determining current software license information concerning the user (figure 2, items 126, 210 and 212, figures 6 and 13A-B; column 35, lines 17-26; column/line 50/12-51/27; column/line 55/56-56/10)

returning current software license information concerning the user to the client (figure 2, item 212, figures 6 and 13A-B; column/line 48/47-49/33; column 50, lines 33-65; column 56, lines 51-64)

10. However, Rabin does not expressly show:

the license verification information comprising a hardware configuration identifier concerning a computer associated with the user, and wherein the hardware configuration identifier comprises identifiers for a plurality of hardware devices within the computer

determining whether a difference between the received hardware configuration identifier and the stored hardware configuration identifier is below a predetermined threshold

11. Branscomb et al. show the authentication of a single hardware component, such as a computer, with multiple identifiers where one or more of the identifiers can be removed, such as on a device (Abstract). Furthermore, Branscomb et al. show that the authentication can still be performed until the number of identifiers falls below the predetermined threshold of one. (Abstract) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Rabin et al. to incorporate the multiple hardware identifiers and threshold of Branscomb et al., in order to provide fault tolerance and support full modularity of hardware (Branscomb, Abstract)
12. As to claims 2, 21, and 28, Rabin et al. further show:
determining that the current license information is that the user is not licensed to run the software program (i.e. requested feature) and returning the current license information (i.e. not licensed to run) to the user (figures 6 and 13A-B)
13. As to claims 3, 22, and 29, Rabin et al. further show:
determining that the current license information is that the user is licensed to run the software and returning the current license information (i.e. licensed to run) to the user (figures 6 and 13A-B)
14. As to claims 4, 5, 23, 24, 30 and 31, Rabin et al. further show:
determining that the current license information allows for modifying (e.g. activating, deactivating, extending, restricting, upgrading or downgrading) license information, returning the current license information to the user, modifying and storing the modified license concerning the user (figures 6 and 13A-B)
15. As to claims 6, 7, 25, and 32, Rabin et al. further show:

not providing the software program (i.e. requested feature) or returning current software license information to the user indicating that the user is not licensed to access the software program (i.e. requested feature) (figures 6 and 13A-B)

16. As to claims 8 and 10, Rabin et al. further show:

providing the software program (i.e. requested feature) or returning current software license information to the user indicating that the user is licensed to access the software program (i.e. requested feature) (figures 6 and 13A-B)

17. As to claim 9 and 11, Rabin et al. further show:

receiving a hardware configuration identifier of a user, determining current license information by comparing the received hardware configuration identifier with a stored hardware configuration identifier, updating and returning that the user is or is not licensed to run the software program (column/line 42/58-43/35; column/line 50/33-51/27; column/line 61/65-50)

Claim Interpretations

18. The Examiner interprets a computer program product to be the storage medium the program is stored on as well as the program contained thereon.

19. As to the system claims, The Examiner considers many of the limitations to be functional, and therefore containing little patentable weight. As per MPEP 2114, "an apparatus must be distinguished from the prior art in terms of structure rather than function."

Response to Arguments

Applicant's arguments with respect to claims 1, 20, 27, 33, and 34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Winter
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621